

FILED

MAR 29 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: JAMES M. KINCAID; In re:
ESTRELLA KINCAID,

Debtors,

JAMES M. KINCAID; et al.,

Appellants,

v.

RONALD R. BIERBER; et al.,

Appellees.

Nos. 05-15228
05-15229

BAP No. EC-04-01465-MPS

MEMORANDUM^{*}

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Montali, Perris, and Smith, Bankruptcy Judges, Presiding

Submitted March 8, 2006^{**}

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Chapter 13 debtors James M. Kincaid and Estrella Kincaid appeal pro se from the Bankruptcy Appellate Panel's ("BAP") order dismissing their appeal from the bankruptcy court's order dismissing their bankruptcy proceeding. We have jurisdiction under 28 U.S.C. § 158(d). We review for abuse of discretion. *Morrissey v. Stuteville (In re Morrissey)*, 349 F.3d 1187, 1190 (9th Cir. 2003). We affirm.

The BAP specifically warned the Kincaids on two occasions of the consequences of failing to perfect their appeal, and each time gave them ten additional days to comply. Rather than file the requested document, the Kincaids filed improper motions and otherwise failed to comply with the BAP's orders. Consequently, the BAP did not abuse its discretion by dismissing the Kincaids' appeal for failure to prosecute. *See Moneymaker v. CoBen (In re Eisen)*, 31 F.3d 1447, 1451-56 (9th Cir. 1994).

AFFIRMED.